

Notice of Non-Compliant Amendment (37 CFR 1.121)

Application No.

10/723,434

Examiner

BRADLEY DUFFY

Applicant(s)

ZHONG ET AL.

Art Unit

1643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 10 February 2009 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
 - ☐ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☐ C. Other _____.
- ☐ 2. Abstract:
 - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
 - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
 - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
 - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
 - ☐ C. Other _____.
- ☒ 4. Amendments to the claims:
 - ☐ A. A complete listing of all of the claims is not present.
 - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims).
 - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☒ E. Other: See Continuation Sheet.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

Failure to timely respond to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Brad Duffy

571-272-9935

Continuation of 4(e) Other: The amendment filed on February 10, 2009, is considered non-compliant because it fails to meet the requirements of 37 CFR § 1.121, as amended on June 30, 2003 (see 68 Fed. Reg. 38611, Jun. 30, 2003) and has not been entered.

The amendment to the claims is non-compliant because e.g., while claim 40 was amended 8/1/08 to delete the word "a" from the phrase "a human VEGF", in the amendment filed February 10, 2009, it appears that the word "a" was reintroduced to claim 40 because the claim recites "a human VEGF". However, there are no claim markings presented in the claim filed February 10, 2009, so the amendment does not properly amend such a phrase as required by 37 CFR § 1.121 by having markings to show only the changes made in the current amendment relative to the immediate prior version.

Briefly, the revised amendment practice now requires a listing of all claims beginning on a separate sheet. Each claim ever presented must be included in the listing of claims together with a single proper status identifier in parentheses. The permissible status identifiers include: "original", "currently amended", "canceled", "withdrawn", "previously presented", "new", and "not entered". The text of all pending claims, including withdrawn claims, must be presented. Markings to show only the changes made in the current amendment relative to the immediate prior version should be included with the text of all currently amended claims, including withdrawn claims that are amended. Added text must be shown by underlining the added text. Generally deleted text must be shown by strikethrough (e.g., ~~strikethrough~~); or if the strikethrough cannot be easily perceived, and for deletion of five or fewer characters, the deleted text may be marked by the inclusion of deleted text in double brackets (e.g., [[444]]). The text of "canceled" and "not entered" claims must not be presented, and consecutive "canceled" or "not entered" claims may be grouped together in one line (e.g., Claims 1-11 (canceled); Claims 51-62 (not entered)).

If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the entire corrected amendment must be resubmitted.